

Appl. No. 10/021,506
Amtd. dated February 6, 2006
Reply to Office action of November 21, 2005

Remarks

After entry of the foregoing amendment, claims 14, 17, 19, 20, 23-25 and 28 are pending. Claims 1, 4, 10-13, 26 and 27 are cancelled herein. These claims are cancelled herein without acquiescing to the rejections and without prejudice to pursuing the subject matter in later applications. Claim 24 has been amended to correct a typographical error.

The Office Action makes no mention of claim 28. Applicants request confirmation that claim 28 is allowable. Applicants cancelled claims 15, 16, 18, 21 and 22 in the response filed August 2, 2005. Applicants request confirmation that these claims were cancelled.

Section 112, First Paragraph, Rejections

Claims 1, 12, 13, 26 and 27 stand rejected under 35 U.S.C. § 112, first paragraph, for failure to comply with the enablement requirement. As claims 1, 12, 13, 26 and 27 have been cancelled herein, Applicants respectfully submit that this rejection is moot and request that it be withdrawn.

Obviousness-type Double Patenting Rejection

Claims 1-4, 10, 12-18 and 20-24 stand rejected under the judicially created doctrine of non-statutory obviousness-type double patenting over U.S. Patent Application Serial No. 10/426,147. The cancellation of claims 1, 4, 10, 12 and 13 herein, as well as the prior cancellation of claims 15, 16, 18, 21 and 22 in the response filed August 2, 2005, renders the rejection of these claims moot and Applicants request that the rejection be withdrawn.

Applicants respectfully submit that the obviousness-type double patenting rejection of claims 14, 17, 19, 20, 23 and 24 should be withdrawn. The claims of U.S. Patent Application Serial No. 10/426,147 are no longer allowed as a Request for Continued Examination in U.S. Patent Application Serial No. 10/426,147 was filed on February 3, 2006. Thus, Applicants respectfully submit that the double patenting rejection is at most a provisional rejection over the claims of U.S. Patent Application Serial No. 10/426,147 as the claims are no longer allowed. "If a 'provisional' nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer." MPEP § 804(I)(B)(1). U.S. Patent Application Serial No. 10/021,506 was filed October 30, 2001 and U.S. Patent Application Serial No. 10/426,147 was filed April 29, 2003. Therefore, as the obviousness-type double patenting rejection is the only rejection

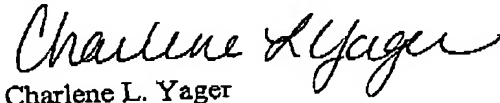
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remaining in this Application, the earlier-filed of the two, Applicants request that the rejection be withdrawn and that this Application be permitted to issue as a patent without a terminal disclaimer.

Conclusion

In view of the remarks and amendments presented herein, it is believed that this application is now in condition for allowance. Applicants request notification that claims 14, 17, 19, 20, 23-25 and 28 are allowed. The Examiner is strongly encouraged to contact the undersigned at the phone number below should any issues remain with respect to the application.

Respectfully submitted,


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